

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

AMERICAN DAIRY QUEEN  
CORPORATION,

Plaintiff,

v.

W.B. MASON CO., INC.

Defendant.

Civil Action No. 0:18-cv-00693-SRN-ECW

**W.B. MASON’S MOTION TO CERTIFY FOR INTERLOCUTORY APPEAL  
AND TO STAY THE CASE PENDING APPELLATE PROCEEDINGS<sup>1</sup>**

Defendant W.B. Mason Co., Inc. (“W.B. Mason”), through counsel, hereby moves the Court pursuant to 28 U.S.C. § 1292(b) for an order certifying for interlocutory appeal the Court’s January 8, 2019 Order (Dkt. 29) (“Order”), based on the following question:

Does a foreign corporation’s compliance with Minnesota’s registration and appointment statutes – Minn. §§ 303.03, 303.10, and 303.13 – which are silent to personal jurisdiction, nonetheless constitute consent to general personal jurisdiction in light of the U.S. Supreme Court’s decisions in *Goodyear Dunlop Tire Ops., S.A. v. Brown*, 564 U.S. 915 (2011) and *Daimler AG v. Bauman*, 134 S.Ct. 746 (2014).

This motion is made on the ground that (1) the Order involves a controlling question of law; (2) there is substantial ground for difference of opinion on this question; and (3)

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<sup>1</sup> W.B. Mason seeks to preserve its right to appeal the Court’s Order (Dkt. 29) finding sufficient personal jurisdiction over W.B. Mason. By filing this motion, W.B. Mason does not hereby consent to the Court’s personal jurisdiction over it.

certification will materially advance the ultimate termination of the litigation. 28 U.S.C. § 1292(b); *White v. Nix*, 43 F.3d 374, 377 (8th Cir. 1994).

W.B. Mason further moves the Court for an order staying proceedings in this action pending the Eighth Circuit's determination whether to grant review under section 1292(b) and the conclusion of any appellate proceedings. A stay is warranted because it will not unduly prejudice or present a clear tactical disadvantage to Plaintiff American Dairy Queen Corporation; it will simplify the issues; and discovery is not complete and a trial date has not been set in this case. *See Novo Nordisk, Inc. v. Paddock Labs., Inc.*, 797 F. Supp. 2d 926, 930, fn. 3 (D. Minn. 2011).

This motion is based on 28 U.S.C. § 1292(b), the accompanying Memorandum of Law, and the entire record herein.

Dated: January 18, 2019

Respectfully submitted,

W. B. MASON CO., INC.

By its attorneys,

/s/ Thomas R. Johnson

Thomas R. Johnson (Reg. No. 242032)

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